



Reprinted
April 4, 2007

ENGROSSED HOUSE BILL No. 1373

DIGEST OF HB 1373 (Updated April 3, 2007 3:37 pm - DI 71)

Citations Affected: IC 8-23; IC 10-13; IC 34-30.

Synopsis: Changeable message signs. Allows the department of transportation to adopt rules to provide for the issuance of permits for changeable message signs. Allows a person to erect and operate a changeable message sign in the absence of rules adopted by the department. Allows the operator of an electronic billboard to enter into a contract with the clearinghouse for information on missing children to display Amber alerts.

Effective: Upon passage.

**Stevenson, Austin, Whetstone,
Kuzman**

(SENATE SPONSORS — STEELE, ROGERS, LANDSKE, SIMPSON)

January 16, 2007, read first time and referred to Committee on Government and Regulatory Reform.

February 15, 2007, amended, reported — Do Pass.

February 19, 2007, read second time, ordered engrossed. Engrossed.

February 21, 2007, read third time, passed. Yeas 91, nays 2.

SENATE ACTION

February 27, 2007, read first time and referred to Committee on Homeland Security, Transportation and Veterans Affairs.

March 29, 2007, amended, reported favorably — Do Pass.

April 3, 2007, read second time, amended, ordered engrossed.

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Reprinted
April 4, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1373

A BILL FOR AN ACT to amend the Indiana Code concerning
utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-23-1-14.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 14.3. (a) "Changeable message sign" means**
4 **a sign that satisfies all of the following:**

5 (1) **The message on the sign may be changed mechanically,**
6 **electronically, or by remote control.**

7 (2) **The static display on the face of the sign:**

8 (A) **does not display any copy or message that moves,**
9 **appears to move, or flashes; and**

10 (B) **lasts at least eight (8) seconds.**

11 (3) **A message change takes no more than two (2) seconds.**

12 (b) **The term includes electronic billboards and trimovement**
13 **signs.**

14 SECTION 2. IC 8-23-1-20.5 IS ADDED TO THE INDIANA CODE
15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]: **Sec. 20.5. "Electronic billboard" means a**
17 **programmable sign capable of presenting a large amount of:**

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- (1) text;
- (2) symbolic imagery; or
- (3) both text and symbolic imagery.

SECTION 3. IC 8-23-1-42.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 42.5. "Trimovement sign" means a sign that displays three (3) separate images sequentially by rotating triangular cylinders.**

SECTION 4. IC 8-23-20-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) The department shall institute a permit system to regulate the erection and maintenance of outdoor advertising signs along:

- (1) the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991; and
- (2) any other highways where control of outdoor advertising signs is required under 23 U.S.C. 131.

(b) Except as provided in subsections (c) and (g) **and section 25.5(c) of this chapter**, a sign may not be erected, operated, used, or maintained in areas described in subsection (a) unless the owner of the sign has obtained a permit under this section.

(c) A permit is not required to erect, operate, use, or maintain the following signs:

- (1) Directional or official signs and notices.
- (2) Signs advertising the sale or lease of the property on which the sign is located.
- (3) Signs that primarily indicate:
 - (A) the name of the business, activity, or profession conducted;
 - (B) the types of goods produced or sold; or
 - (C) the services rendered;
 on the property on which the sign is located.

(d) Signs in existence on July 1, 1993, and subject to this section:

- (1) must comply with the registration system described in subsection (h); and
- (2) are subject to the permit requirement after the department has made the determination described in subsection (g).

(e) The department shall adopt rules under IC 4-22-2 to carry out this section. Rules adopted under this section may be no broader than necessary to implement 23 U.S.C. 131 and 23 CFR 750.

(f) In addition to the requirements of subsection (e), rules adopted under this section must provide the following:

- (1) A list of all roadways subject to the permit requirement.

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(2) A procedure to appeal adverse determinations of the department under IC 4-21.5, including provisions for judicial review under IC 4-21.5.

(3) A one-time fee of one hundred dollars (\$100) per structure must accompany the permit application. A permit fee may not be charged to a sign that is subject to and complies with the registration system described in subsection (h).

(4) That a permit may not be issued for a sign erected in an adjacent area after January 1, 1968, unless:

(A) the sign is erected in an area described in section 5 of this chapter; or

(B) the permit is a conditional permit issued under subdivision (6).

(5) That a permit may not be issued for a sign erected after June 30, 1976, outside of urban areas, beyond six hundred sixty (660) feet of the right-of-way, visible from the traveled way, and erected with the purpose of a message being read from the traveled way, unless:

(A) the sign is erected in an area described in section 5 of this chapter; or

(B) the permit is a conditional permit issued under subdivision (6).

(6) For the issuance of a conditional permit for a nonconforming sign that has not been acquired under section 10 of this chapter. A conditional permit issued under this subdivision may be revoked if the department subsequently acquires the sign.

(7) That the department is granted the right to enter the real property on which a sign for which a permit under this section has been applied for or issued to perform reasonable examinations and surveys necessary to administer the permit system.

(8) The department may revoke any permit when it is found that the permittee has provided false or misleading information and that such a finding may be cause to subsequently refuse to issue a permit.

(9) Any other provisions necessary to:

(A) administer this section; or

(B) avoid sanctions under 23 U.S.C. 131.

(g) A sign that is subject to and complies with the registration system described in subsection (h) may not be declared unlawful until the later of the following:

(1) The department has made a determination of permit eligibility under this section.

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(2) December 31, 1993.

(h) A separate application for registration must be submitted to the department for each structure defined in subsection (d) and must:

- (1) be on a form furnished by the department;
- (2) signed by the applicant or an individual authorized in writing to sign for the applicant;
- (3) provide information concerning the size, shape, and nature of the advertising sign, display, or device;
- (4) provide the sign's actual location with sufficient accuracy to enable the department to locate the sign; and
- (5) include a one-time registration fee of twenty-five dollars (\$25).

(i) A sign that is not registered before January 1, 1994, is a public nuisance subject to section 26 of this chapter.

(j) Each registrant shall fasten to each advertising sign or device a label or marker provided by the department that must be plainly visible from the traveled way.

SECTION 5. IC 8-23-20-25.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 25.5. (a) The department may adopt rules under IC 4-22-2 that provide for the issuance of a permit for a changeable message sign erected, operated, used, or maintained in areas described in section 25(a) of this chapter.**

(b) A permit authorized by this section may not otherwise violate state or federal law or local ordinances or regulations.

(c) Until the department adopts rules under this section, a person may erect, operate, or use a changeable message sign in an area described in section 25(a) of this chapter, subject to any other requirements of state or federal law or local ordinances or regulations.

(d) This subsection applies to a changeable message sign erected after the owner or operator receives a permit from the department. Notwithstanding any rules adopted by the department after the issuance of the permit, a changeable message sign that is in compliance with the rules in effect at the time a permit is granted for the changeable message sign is considered to be in compliance with the department's rules.

SECTION 6. IC 10-13-5-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.1. (a) In addition to an agreement with a broadcaster under section 8 of this chapter, the clearinghouse may enter into an agreement with one (1) or more electronic billboard**

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operators to display Amber alerts under this section. An agreement under this section may include a limitation on the days and times that the electronic billboard operator is required to have staff present to receive an Amber alert notification.

(b) The department's guidelines adopted under section 8 of this chapter may require staff, upon receiving a report that a child has been abducted, to immediately send by facsimile (fax) transmission or other means of communication a description of the abducted child to one (1) or more electronic billboard operators participating in the Amber alert program if the Amber alert occurs during a period when the electronic billboard operator has agreed to have staff present to receive an Amber alert notification.

(c) An electronic billboard operator participating in the Amber alert program shall immediately display:

- (1) a description of the abducted child; and
- (2) other information that will assist in locating the abducted child;

to the general public in accordance with the Amber alert plan agreement between the clearinghouse and the electronic billboard operator.

(d) The department shall adopt guidelines governing the voluntary Amber alert program agreement between the clearinghouse and an electronic billboard operator. The voluntary agreement between the clearinghouse and the electronic billboard operator may include the following provisions:

(1) Upon receiving a notification as part of the Amber alert program, the electronic billboard operator shall display the information contained in the notice on an intermittent basis for a period of time as provided in the agreement between the clearinghouse and the electronic billboard operator.

(2) The electronic billboard operator shall treat the Amber alert notification as an emergency.

(3) The electronic billboard operator shall ensure that the facsimile (fax) transmission machine or other communications device used to receive an Amber alert notification is:

(A) generally available to receive an Amber alert notification; and

(B) located such that the electronic billboard operator will immediately become aware of an incoming Amber alert notification received during days and times when staff is present to receive an Amber alert notification.

SECTION 7. IC 10-13-5-8.5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) A broadcaster **or electronic billboard operator** that has agreed to participate in the Amber alert program and that:

(1) receives an Amber alert notification from the department; and

(2) broadcasts **or displays**:

(A) a description of the abducted child contained in the notification; and

(B) other information contained in the notification that will assist in locating the child;

is immune from civil liability based on the broadcast **or display** of the information received from the department.

(b) If:

(1) a person enters into an agreement with the department to establish or maintain an Amber alert web site; and

(2) the agreement provides that only the department has the ability to place information on the web site;

the person is immune from civil liability for the information placed on the web site by the department. However, this subsection does not affect the applicability of IC 34-13-3 to the department.

SECTION 8. IC 34-30-2-35.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35.7. IC 10-13-5-8.5 (Concerning a broadcaster who broadcasts **or an electronic billboard operator who displays** an Amber alert notification, and a person who establishes or maintains an Amber alert web site under an agreement with the state police department).

SECTION 9. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1373, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 17, delete "," and insert "**and section 25.5 (c) of this chapter,**".

Page 3, delete lines 35 through 37.

Page 3, line 38, reset in roman "(9)".

Page 3, line 38, delete "(10)".

Page 4, after line 20, begin a new paragraph and insert:

"SECTION 4. IC 8-23-20-25.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 25.5. (a) The department may adopt rules under IC 4-22-2 that provide for the issuance of a permit for a changeable message sign erected, operated, used, or maintained in areas described in section 25(a) of this chapter.**

(b) A permit authorized by this section may not otherwise violate state or federal law or local ordinances or regulations.

(c) Until the department adopts rules under this section, a person may erect, operate, or use a changeable message sign in an area described in section 25(a) of this chapter, subject to any other requirements of state or federal law or local ordinances or regulations."

and when so amended that said bill do pass.

(Reference is to HB 1373 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred House Bill No. 1373, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, after line 30, begin a new paragraph and insert:

"(d) This subsection applies to a changeable message sign

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erected after the owner or operator receives a permit from the department. Notwithstanding any rules adopted by the department after the issuance of the permit, a changeable message sign that is in compliance with the rules in effect at the time a permit is granted for the changeable message sign is considered to be in compliance with the department's rules.

SECTION 7. IC 10-13-5-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8.1. (a)** In addition to an agreement with a broadcaster under section 8 of this chapter, the clearinghouse may enter into an agreement with one (1) or more electronic billboard operators to display Amber alerts under this section. An agreement under this section may include a limitation on the days and times that the electronic billboard operator is required to have staff present to receive an Amber alert notification.

(b) The department's guidelines adopted under section 8 of this chapter may require staff, upon receiving a report that a child has been abducted, to immediately send by facsimile (fax) transmission or other means of communication a description of the abducted child to one (1) or more electronic billboard operators participating in the Amber alert program if the Amber alert occurs during a period when the electronic billboard operator has agreed to have staff present to receive an Amber alert notification.

(c) An electronic billboard operator participating in the Amber alert program shall immediately display:

- (1)** a description of the abducted child; and
- (2)** other information that will assist in locating the abducted child;

to the general public in accordance with the Amber alert plan agreement between the clearinghouse and the electronic billboard operator.

(d) The department shall adopt guidelines governing the voluntary Amber alert program agreement between the clearinghouse and an electronic billboard operator. The voluntary agreement between the clearinghouse and the electronic billboard operator may include the following provisions:

- (1)** Upon receiving a notification as part of the Amber alert program, the electronic billboard operator shall display the information contained in the notice on an intermittent basis for a period of time as provided in the agreement between the clearinghouse and the electronic billboard operator.
- (2)** The electronic billboard operator shall treat the Amber

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alert notification as an emergency.

(3) The electronic billboard operator shall ensure that the facsimile (fax) transmission machine or other communications device used to receive an Amber alert notification is:

(A) generally available to receive an Amber alert notification; and

(B) located such that the electronic billboard operator will immediately become aware of an incoming Amber alert notification received during days and times when staff is present to receive an Amber alert notification.

SECTION 8. IC 10-13-5-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8.5. (a) A broadcaster **or electronic billboard operator** that has agreed to participate in the Amber alert program and that:

(1) receives an Amber alert notification from the department; and

(2) broadcasts **or displays**:

(A) a description of the abducted child contained in the notification; and

(B) other information contained in the notification that will assist in locating the child;

is immune from civil liability based on the broadcast **or display** of the information received from the department.

(b) If:

(1) a person enters into an agreement with the department to establish or maintain an Amber alert web site; and

(2) the agreement provides that only the department has the ability to place information on the web site;

the person is immune from civil liability for the information placed on the web site by the department. However, this subsection does not affect the applicability of IC 34-13-3 to the department.

SECTION 9. IC 34-30-2-35.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 35.7. IC 10-13-5-8.5 (Concerning a broadcaster who broadcasts **or an electronic billboard operator who displays** an Amber alert notification, and a person who establishes or maintains an Amber alert web site under an agreement

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with the state police department).".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1373 as printed February 16, 2007.)

WYSS, Chairperson

Committee Vote: Yeas 10, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1373 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 8 with "[EFFECTIVE UPON PASSAGE]".

Page 6, after line 25, begin a new paragraph and insert:
"SECTION 9. **An emergency is declared for this act.**".

(Reference is to EHB 1373 as printed March 30, 2007.)

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